SOUTHERN DISTRICT OF MISSISSIPPI
FILED
FEB - 6 2017
ARTHUR JOHNSTON
BY DEPUTY

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

NEVA P. EKLUND **PLAINTIFF**

VS. **CAUSE NO.** 3:17-cv-80 HTW-LRA

**UNIVERSITY OF MISSISSIPPI
MEDICAL CENTER AND DR. STEVEN A. BONDI** **DEFENDANTS**

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §1441, *et seq*., Defendants, University of Mississippi Medical Center and Dr. Steven A. Bondi, hereby remove from the Chancery Court of Hinds County, Mississippi to the United States District Court for the Southern District of Mississippi, Northern Division, the state action entitled, *Neva P. Eklund vs. University of Mississippi Medical Center,* Civil Action Number G2017-133 which was filed in the Chancery Court on February 3, 2017. As grounds for removal, Defendants herein state the following:

1. Plaintiff's action for Pre-Action Discovery, Permanent Injunction, Preliminary Injunction and Temporary Restraining Order was filed on or about September 24, 2014, in the Hinds County Chancery Court in Hinds County, Mississippi in cause number 2014-1349-S/2. In this Chancery Court case, the Court issued a temporary restraining order without notice.

2. Defendant UMMC was served with Plaintiff's action for violations of her procedural due process pursuant to the United States Constitution, Pre-Action Discovery, Permanent Injunction, Preliminary Injunction and Temporary Restraining Order on September 24, 2014, and with the Court's Temporary Restraining Order. The temporary restraining order was sought and entered pursuant to a claim of due process under the 14th Amendment to the U.S. Constitution. Therefore, this Court had original jurisdiction pursuant to 28 U.S.C. § 1331.

3. The case was removed to the United States District Court for the Southern District of

Mississippi based on federal question jurisdiction on September 25, 2014, in civil action number 3:14-cv-TSL-RHW.

4. Based on the removal, the Chancery Court of Hinds County no longer has jurisdiction over the Temporary Restraining Order entered on September 24, 2014. Whenever a case is removed, interlocutory state court orders are transformed by operation of 28 U.S.C. § 1450 into orders of the federal district court to which the action is removed. The district court is thereupon free to treat the order as it would any such interlocutory order it might itself have entered. *Nissho-Iwai Am. Corp. v. Kline*, 845 F.2d 1300, 1304 (5th Cir. 1988). By operation of law, the temporary restraining order became an order of the federal court.

5. Plaintiff Eklund, has now filed a Complaint and Motion for Preliminary Injunction in the Chancery Court of Hinds County, Mississippi in cause number G-2017-133 S/2. In this action, Plaintiff seeks to hold Defendants in contempt for violating the temporary restraining order of September 24, 2014, that was issued without notice pursuant to an alleged violation of the U.S. Constitution.. This order was subsequently removed; and therefore is only properly enforced through the federal court, not the Chancery Court of Hinds County, Mississippi. Therefore removal in this action is based on federal question jurisdiction pursuant to 28 U.S.C. § 1331 and the All Writs Act, 28 U.S.C. § 1651.

6. Pursuant to 28 U.S.C. §§ 1367 and 1441, jurisdiction and removal are proper for all pendant state claims.

7. Copies of all process, pleadings, orders and other papers, filed in this action and obtained by Defendant are attached hereto as Exhibit "A" and incorporated by reference.

8. The removal of this matter is proper pursuant to 28 U.S.C. § 1446.

9. Pursuant to 28 U.S.C. §1446(d), all adverse parties are being provided with written notice

of removal and a copy of this Notice of Removal is being filed with the Chancery Court Clerk of Hinds County, Mississippi.

10. By filing this Notice of Removal, the Defendants herein do not waive their rights to object to service, service of process, the sufficiency of process, jurisdiction over the subject matter, jurisdiction over the person, or venue, and specifically reserves the right to assert any and all defenses and/or objections to which they may be entitled.

WHEREFORE, removing Defendants hereby file Notice that this case is removed to the United States District Court for the Southern District of Mississippi.

Respectfully submitted, this the 6th day of February, 2017.

UNIVERSITY OF MISSISSIPPI MEDICAL CENTER AND DR. STEVEN A. BONDI

By: ______________________________

TOMMY WHITFIELD, MSB# 102482
tommy@whitfieldlaw.org
Whitfield Law Group, PLLC
660 Lakeland East Drive, Suite 200
Flowood, Mississippi 39232
(601) 863-8221 – Telephone
(601) 863-8231 – Facsimile

CERTIFICATE OF SERVICE

I, Tommy Whitfield, of the Whitfield Law Group, PLLC, have this day mailed, via USPS, a true and correct copy of the above and foregoing Notice of Removal to the following counsel of record:

S. David Norquist
David Norquist Law, PLLC
Post Office Box 1379
Cleveland, Mississippi 38732

J. Brad Pigott
Pigott Law Firm
775 North Congress Street
Jackson, Mississippi 39202

Attorneys for Plaintiff

THIS, the 6th day of February, 2017.

TOMMY WHITFIELD, MSB # 102482